

**STATE OF GEORGIA
BOARD OF COURT REPORTING
OF THE JUDICIAL COUNCIL OF GEORGIA**

The Board of Court Reporting, by majority vote of the Board, publicly issues the following opinion, pursuant to Article 13.B. of its Rules and Regulations, to assist court reporters and users of the courts of Georgia in understanding electronic certification of transcripts in criminal cases:

Public Advisory Opinion BCR 2015-1

Applying the Uniform Electronic Transactions Act to Court Reporting

On July 23, 2010, the Board issued Advisory Opinion 2010-1, entitled “Applicability of the Georgia Uniform Electronic Transactions Act to the Electronic Certification of Transcripts.” In the opinion, the Board made clear that the Uniform Electronic Transactions Act (UETA) did not apply to the electronic certification of transcripts and could not be relied upon by court reporters in support of such certifications. The Board did, however, recognize the possibility of a future statute, rule, or regulation that might enable court reporters to electronically certify transcripts and could consequently trigger the applicability of the UETA.

In 2014, the Judicial Council of Georgia approved new policies relating to court reporting in criminal cases. Policy 2.3(B), which allows for the electronic certification of criminal transcripts, provides:

Transcripts may be electronically certified. Any transcript electronically certified must include a certificate as described by O.C.G.A. § 15-14-5 and must include the electronic signature of the court reporter. The electronic signature shall be unique to and under the sole control of the court reporter using it and constitute evidence of a legal signature of the court reporter.

Because of the enactment of this policy, the Board believes certain provisions of the UETA should apply to the electronic certification of criminal transcripts. Interpretation of the UETA may lend instructive guidance to court reporters and court personnel as to whether a criminal transcript is properly electronically certified.

An electronic signature, as specified by the policy, must meet two criteria before being authenticated: (1) it must be unique, and (2) it must be under the sole control of the court reporter using it. The test for verification of the signature lies in the statutory language of the UETA:

(a) An electronic record or electronic signature shall be attributable to a person if such record or signature was the act of the person. The act of the person *may be shown in any manner*, including a showing of the efficacy of any security

procedure applied to determine the person to whom the electronic record or electronic signature was attributable.

(b) The effect of an electronic record or electronic signature attributed to a person under subsection (a) of this Code section shall be determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

O.C.G.A. § 10-12-9 (emphasis added). “Electronic signature” is defined simply as “an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.” O.C.G.A. § 10-12-2(8).

Thus, a court reporter using an electronic signature would have a variety of options for signing a document so long as the reporter is intending to be bound by his or her signature. In some jurisdictions, something as simple as a typed name suffices. *See, e.g., Bishop v. Norrell*, 88 Ariz. 148, 151. The Board believes a typed name is sufficient to meet the UETA’s requirements. Other than a typed name, a court reporter may wish to take a picture of his or her signature and upload it to his or her computer, which would enable the reporter to place the image at the end of a document as a unique identifier. Further, under the UETA, even sounds and symbols would be acceptable.

In conclusion, a court reporter electronically certifying a criminal transcript may choose his or her own method – whether a typed signature, an uploaded image, a sound, or a symbol – of certifying a transcript, so long as the identifier is unique and under the sole control of the court reporter.